

STATE OF MICHIGAN
COURT OF APPEALS

CHURCH OF CHRIST OF NEW BOSTON and
ERNA GILL,

Plaintiffs,

and

DONALD FECAY and HENRY DROUILLARD,

Plaintiffs-Appellants,

v

TRIEBER ACRE,

Defendant-Appellant.

UNPUBLISHED
August 2, 2005

No. 253102
Wayne Circuit Court
LC No. 02-237720-CZ

Before: Borrello, P.J. and Bandstra and Kelly, JJ.

MEMORANDUM.

Plaintiffs appeal as of right the trial court's order granting summary disposition to defendant and dismissing plaintiffs' complaint. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This case involves a continuing and internal dispute between two factions of members of the Church of Christ of New Boston. The parties were involved in a previous action, in which the church sued for an injunction to exclude the current plaintiffs from returning to the church because the church had "disfellowed" them. The trial court dismissed the church's complaint for lack of subject matter jurisdiction because resolution of the dispute involved resolving matters of religious doctrine and ecclesiastical polity, which exceeded the court's jurisdiction. *Maciejewski v Breitenbeck*, 162 Mich App 410, 413-414; 413 NW2d 65 (1987). The Court of Appeals affirmed. *Church of Christ of New Boston v Erna Gill*, unpublished opinion per curiam of the Court of Appeals, issued April 23, 2002 (Docket No.224248).

In this case, plaintiffs, the allegedly "disfellowed" members in the previous action, claimed that defendant minister interfered with their use of church property. Plaintiffs requested an injunction, an accounting, and a partition of church property. The circuit court ordered defendant to schedule use of church property based on public safety concerns and dismissed the complaint. Plaintiffs now claim that the order directing defendant to schedule use of church

property exceeds the court's jurisdiction because it involves consideration of church polity. We disagree. In ordering defendant to schedule use of church property, the circuit court based its decision on public safety concerns after reviewing evidence of harassment, disruption of church meetings, and an alleged assault. It did not consider or resolve any matter of church doctrine or polity.

Plaintiffs also argue that the circuit court erroneously granted summary disposition because they had demonstrated genuine issues of material fact with regard to who are members of the church, whom the members elected as officers of the church, and whom the members employed as the minister of the church. We agree that plaintiffs created issues with regard to these facts, but we find these disputes immaterial. Defendant moved for summary disposition under MCR 2.116(C)(1) (lack of jurisdiction over the property), MCR 2.116(C)(4) (lack of subject matter jurisdiction), MCR 2.116(C)(5) (lack of capacity to sue), MCR 2.116(C)(7) (claim is barred by prior adjudication), and MCR 2.116(C)(8) (failure to state a cause of action on which relief can be granted), none of which require a determination of membership.

Affirmed.

/s/ Stephen L. Borrello
/s/ Richard A. Bandstra
/s/ Kirsten Frank Kelly